

Honorable David G. Estudillo

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff
v.

JOE DELFGAUW, XANADU
MARKETING INC., STARTER HOME
INVESTING INC, &
JOHN DOE 1-10

Defendant(s).

CASE NO. **3:21-cv-05610-DGE**

MOTION FOR CONTEMPT AND
MOTION FOR RELIEF FROM A
DEADLINE

Noted for: July 21, 2025

In Dkt. 489 I raised the issue of Mr. Delfgauw's interrogatory answers (Dkt 489-1) not signed under oath. On 6/24/2025, the Court ordered:

Defendant shall promptly re-produce his interrogatory responses with an attestation under oath that complies with Rule 33.

On Friday, June 27, Ms. VanDusen emailed me with subject line *Joe Delfgauw signature* (Exhibit A) a file called *Answer Delfgauw Interrogatories 7 word version (1)(2).pdf* (Exhibit B).

I saw Mr. VanDusen's email and responded "Thank you" in Exhibit C. Later I ran a difference tool between the initial version (Dkt 489-1) and this later version (*Answer Delfgauw*

Interrogatories 7 word version (1)(2).pdf) and found they surreptitiously changed Mr.

Delfgauw's answers to Interrogatory #26.

MOTION FOR CONTEMPT
CASE NO 3:21-CV-05610-DGE

- 1 / 5

NATHEN BARTON
4618 NW 11TH CIR
CAMAS WA 98607

<p>15 DKT 444 Exhibit C was obtained from the server company, software company and SMS 16 provider, which is not owned or operated by Mr. Delfgauw or his entities. I found validation that 17 the text message was sent and clicked on, and prior to that the person with the same IP address 18 that responded to the text message opted-in to receive these messages.</p> <p>19 1. I believe on April 1, 2021 at 14:04 EST, Nathan Barton filled out the form in DKT 444-4 20 (Rent to Own), which prompted Mr. Barton to receive a text message from Rent to Own at 14:04 21 EST. I believe Mr. Barton used the name Ivette Jimenez when he filled out the forms to opt in to 22 receive text messages and phone calls. DKT 444 Exhibit C shows that a person from the same 23 IP address 71.238.123.234 filled out a form from Defendants webpage on the date and time</p> <p>24 BARTON V. DELFGAUW -DEFENDANT'S ANSWER TO PLAINTIFF'S 7TH REQUEST FOR INTERROGATORIES CASE NO. 3:21-cv-05610-DGE Page ato2 of 9</p> <p>DAWN R. VANDUSEN 2715 AIRPORT RD ADRIAN, MI 49221</p> <p>Original</p>	<p>15 NB0004 was obtained from the server company, software company and SMS provider, which is 16 not owned or operated by Mr. Delfgauw or his entities. I found validation that the text message 17 was sent and clicked on, and prior to that the person with the same IP address that responded to 18 the text message opted-in to receive these messages.</p> <p>19 1. I believe on April 1, 2021 at 14:04 EST, Nathan Barton filled out the form in NB 214-217 20 (Rent to Own), which prompted Mr. Barton to receive a text message from Rent to Own at 14:04 21 EST. I believe Mr. Barton used the name Ivette Jimenez when he filled out the forms to opt in to 22 receive text messages and phone calls. NB 0004 shows that a person from the same IP address 23 71.238.123.234 filled out a form from Defendants webpage on the date and time listed.</p> <p>24 BARTON V. DELFGAUW -DEFENDANT'S ANSWER TO PLAINTIFF'S 7TH REQUEST FOR INTERROGATORIES CASE NO. 3:21-cv-05610-DGE Page ato2 of 9</p> <p>DAWN R. VANDUSEN 2715 AIRPORT RD ADRIAN, MI 49221</p> <p>Surreptitiously changed</p>
<p>1 listed. Additionally, Mr. Barton admits he received a text message on April 1, 2021 at the same 2 time and he continued to click on the text message link that finally opened up the webpage that 3 used the domain name Xamadutracking.com. (DKT 83 at 4:11-24 5:1-8).</p> <p>4 Mr. Barton admits that when he received a text message, he would click on it to investigate who 5 it was coming from. Because Mr. Barton continued to fill out forms, then click on the text 6 message instead of opting out he continued to receive text messages and phone calls.</p> <p>7 2. On April 9, 2021 at 18:29 EST DKT 444 Exhibit C shows that Mr. Barton filled out a form 8 from the IP address 71.238.123.34, using his number 360-910-1019, and Ivette Jimenez name. 9 Mr. Barton admits to receiving a text message on this date and did not opt out after receiving it. 10 (DKT 83 at 8:15-)</p>	<p>1 Additionally, Mr. Barton admits he received a text message on April 1, 2021 at the same time 2 and he continued to click on the text message link that finally opened up the webpage that used 3 the domain name Xamadutracking.com. (DKT 83 at 4:11-24 – 5:1-8).</p> <p>4 Mr. Barton admits that when he received a text message, he would click on it to investigate who 5 it was coming from. Because Mr. Barton continued to fill out forms, then click on the text 6 message instead of opting out he continued to receive text messages and phone calls.</p> <p>7 2. On April 9, 2021 at 18:29 EST NB0004 shows that Mr. Barton filled out a form from the IP 8 address 71.238.123.34, using his number 360-910-1019, and Ivette Jimenez name. Mr. Barton 9 admits to receiving a text message on this date and did not opt out after receiving it. (see 10 Complaint)</p>

The differences report is in Exhibit D. I promptly notified Ms. VanDusen of this surreptitiously changed Interrogatory #26 answer in Exhibit E, also shown in the first image on the next page. She replied, accusing me of changing the document and dared me to do something about it.

Joe Delfgauw signature

dawnv@apello.net <dawnv@apello.net>
To: Nathen Barton <farmersbranch2014@gmail.com>

Mon, Jun 30, 2025 at 11:08 AM

Nathen-

First off- I went back through the Answers that were sent to you. I never us NB000?. You have changed the document. Why would I refer to NB000? as there were no attachments. If you still plan on filing a motion for contempt, I will also proceed to do the same.

I created a video screenshot of my opening the file *Answer Delfgauw Interrogatories 7 word version (1)(2).pdf* attached to Ms. VanDusen's email and it can be viewed at

<https://youtu.be/RFhRH0K9SAw>. I am happy to come to Tacoma and let the Court open Ms.

VanDusen's email and look at the original *Answer Delfgauw Interrogatories 7 word version (1)(2).pdf* file for itself.

Joe Delfgauw signature

Nathen Barton <farmersbranch2014@gmail.com>
To: dawnv@apello.net

Fri, Jun 27, 2025 at 8:20 PM

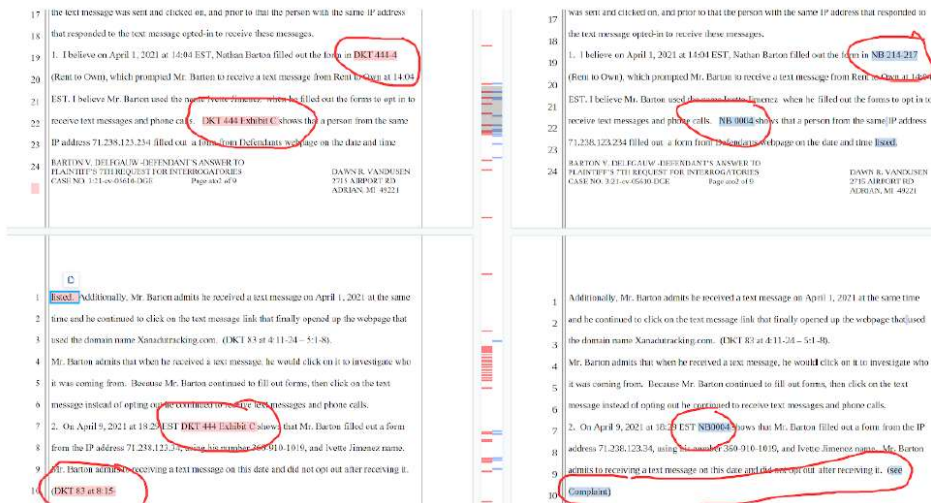
Hello,

The judge ordered "Defendant shall promptly re-produce his interrogatory responses with an attestation under oath that complies with Rule 33."

Mr. Delfgauw produced amended responses under oath, not a re-production of his responses as the judge ordered. These Bates stamps refer to documents in a different lawsuit, have no meaning in this lawsuit, and collide with Bates stamps in this lawsuit.

I asked the Court for guidance about the oath. Ms. Craft advised me to file a motion, and the appropriate motion would be for contempt. You know better than to amend interrogatory responses on the sly without identifying them as such, and you know better than to play games with the oath. I need you to comply with the judge's order 5pm Monday, or I am filing the motion for contempt about the verification game and this non-compliant and deceptive document you just served on me.

Nathen



[Quoted text hidden]

Mr. Delfgauw and/or his attorney Ms. VanDusen changed:

DKT 444 Exhibit C → NB0004

DKT 444-4 → NB214-217

DKT 444 Exhibit C → NB004

DKT 444 Exhibit C → NB004

DKT 83 at 8:15 → see Complaint

These “NB” codes don’t match up with my exhibits (see Dkt. 374 starting on page 10) where there is no NB0004, NB214, NB215, NB216, or NB217. Even if these documents existed in some reality,

“Rule 33(b)(3) requires each interrogatory to be answered separately and fully, without reference to other interrogatories or documents. *Mulero-Abreu v. P.R. Police Dep’t*, 675 F.3d 88, 93 (1st Cir. 2012)(“answering interrogatories simply by directing the proponent to rummage through other discovery materials falls short of the obligations imposed by Rule 33”)” *McClellan v. Kern Cty. Sheriff’s Office*, 2015 U.S. Dist. LEXIS 98524, 2015 WL 4598871

I didn't mind when they pointed to documents in the Court's docket, but I object to them pointing to documents that don't even exist as my exhibits in this court case. They don't like the answer Mr. Delfgouw gave to Interrogatory #26 and they surreptitiously tried to slip in an amended answer with significant differences, hoping it would slide by unnoticed.

And then instead of owning up to it and fixing it as I asked, Ms. VanDusen accuses me of changing the document. Mr. Delfgauw and/or Ms. VanDusen did not comply with the Court's order:

Defendant shall promptly re-produce his interrogatory responses with an attestation under oath that complies with Rule 33.

Instead, they produced a different interrogatory response and tried to pass it off as unchanged.

MOTION FOR CONTEMPT

Mr. Delfgaww and/or Ms. VanDusen used deception to willfully not comply with the Court's Order. They should be held in contempt, and they should be motivated to comply with the Court's Order. They should pay something for the time and cost of bringing this motion.

MOTION FOR RELIEF FROM A DEADLINE

I need Mr. Delfgauw to re-produce his interrogatory responses with an attestation under oath that complies with Rule 33 so that I can prepare for the upcoming summary judgement submissions. I can't be prepared for the upcoming summary judgement submissions until this issue is resolved and I know what Mr. Delfgauw's testimony is. I ask the Court to move my deadline for filing a dispositive motion until three weeks after Mr. Delfgauw re-produces his interrogatory responses with an attestation under oath that complies with Rule 33, and to move my deadline for a response to two weeks after that deadline.

Finally, I ask that the Court order an *in camara* inspection of the emails and documents and expose the liar publicly, along with the appropriate sanctions.

June 30, 2025



(Nathen Barton)

Nathen Barton
 (360) 241 7255
 4618 NW 11th Cir
 Camas WA 98607
FarmersBranch2014@gmail.com

I. CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2025, I electronically filed the foregoing with the Clerk of the Court using the Court's CM/ECF System, which will automatically generate a Notice of Electronic Filing to all parties in the case who are registered users of the CM/ECF System, which includes the Defendant. The said Notice of Electronic Filing specifically identifies recipients of electronic notice.

/s/ Nathen Barton

Nathen Barton
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